

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:13-CV-9-FL

SHELLFISH TO GO II, INC.,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
DIRTY DICK'S, INC.,)	
)	
Defendant.)	

This matter recently came before the court on plaintiff's motion for default judgment (DE 12). For reasons given in prior order, that motion was granted in that part where plaintiff seeks injunctive relief and held in abeyance in that part where plaintiff requests monetary damages, pending supplementation, as ordered. Plaintiff timely filed its response, wherein it waives its right to recover infringement damages.

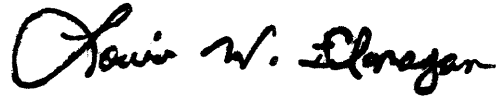
Plaintiff now seeks to show that this case is exceptional and that plaintiff is entitled to attorneys' fees as the prevailing party under the Lanham Act, the amount of which it proffers will be shown in subsequent filing. Plaintiff also seeks to recover its costs.

As to the damages part of plaintiff's motion (DE 12), plaintiff's disclaimer of monetary damages is noted. As such, that remaining part of the motion is DISMISSED as MOOT.

Turning to the new requests, inserted into plaintiff's response to prior order, the clerk shall mark that response also in this respect as a pending motion. The court holds in abeyance decision on whether this case is exceptional. Leave is given to plaintiff of fourteen (14) days within which

to make its supplemental filings, in furtherance of its new requests. Thereafter the court will take up and decide those issues in conclusion of the case.

SO ORDERED, this the 25th day of September, 2013.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive style with a large initial "L".

LOUISE W. FLANAGAN
United States District Judge